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RONALD L GRUDZIECKI
BURNS DOANE SWECKER & MATHIS
PO BOX 1404
ALEXANDRIA VA 22313-1404

JUN 16 2010
OFFICE OF PETITIONS

In re Application of :
Liang et al. :
Application No. 09/529638 :
Filing or 371(c) Date: 06/05/2000 : DECISION
Attorney Docket Number: 000500-252 : ON PETITION

This is a decision on the "Petition to Withdraw Withholding of Abandonment Under 37 CFR §1.181," filed March 9, 2010.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed November 2, 2004¹. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a Notice of Appeal in response to the Office action on December 13, 2004, and an Appeal Brief on January 31, 2005. The Examiner filed an Answer on May December 12, 2006². The case was set before the Board of patent Appeals and interferences ("Board"), which affirmed the Examiner in a Decision mailed November 12, 2009. No response to the Board Decision having been received, the application became abandoned after the period for seeking court review had expired³.

¹ The final Office action allowed claims 4-20 and 26-30.

² Applicant also filed a reply brief on January 12, 2007. In response, this Office mailed Notice of Non-Compliant Appeal Brief on February 5, 2007; Applicant filed a second Reply Brief on February 16, 2007; this Office entered and considered the Reply Brief, so informing Applicant on May 14, 2007; and forwarding the case to the Board; The Board returned the case to the Examiner for consideration of a previously-filed Information Disclosure Statement ("IDS"), and on October 22, 2007 the Examiner mailed an Office action stating that the IDS had been considered. The case was thereafter docketed before the Board.

³ The MPEP 1214.06 states: "The proceedings in an application or ex parte reexamination proceeding are terminated as of the date of the expiration of the time for filing court action."

The present petition

Applicant files the present petition and avers non-receipt of the Board Decision.

With the present petition, Applicant has demonstrated non-receipt of the Office action by a preponderance of the evidence⁴.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn. No petition fee has been charged and none is due.

The application will be referred to the Technology Center Art Unit 3761 for processing of the Request for Continued Examination (“RCE”) and submission (Amendment), filed with the present petition in the normal course of business.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

⁴ It is also noted that where, as here, claims stand allowed, the MPEP provides that “[t]he appellant is not required to file a reply. The examiner issues the application or ex parte reexamination certificate on the claims which stand allowed.” MPEP 1214.06.